

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 8**

GENERAL PEST CONTROL CO.

Employer

and

CASE NO. 8-RC-16152

**TEAMSTERS LOCAL UNION NO.
293 A/W THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS, AFL-CIO¹**

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding,² the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The labor organization involved claims to represent certain employees of the Employer.

¹ The Petitioner's name appears as amended at hearing.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

*All full-time and regular part-time service technicians, warehouse employees, and shipping and receiving employees employed by the Employer at its Northeast Ohio facilities at 3561 West 105th Street, Cleveland, Ohio, 36628 Vine Street, Eastlake, Ohio, and 365 West Exchange, Akron, Ohio, but excluding all seasonal employees, office clerical employees, and all professional employees, guards and supervisors as defined in the Act.*³

There are approximately 25 employees in the unit found to be appropriate, including the five employees whose status is in dispute in this case.

The five individuals at issue are David Cehelnik, James Gilbert, Chris Jalkanen, Richard Klimaszewski and Jim Votava. The Petitioner contends, contrary to the Employer, that these five individuals are not eligible to vote in an election because they are supervisors within the meaning of Section 2(11) of the Act.

General Pest Control Co. is in the business of providing pest control service, inspections and products to customers in Northeast Ohio. John Gedeon, Jr. is the Employer's President and General Manager, and has been employed by the Employer for 37 years. Bob Howe is the Operations Manager and assists Gedeon in the management of the Employer's operations.⁴ The Employer has facilities located in Cleveland, Eastlake and Akron.

² The parties timely filed briefs that have been duly considered.

³ At hearing, the parties stipulated to the appropriateness of this unit.

⁴ Gedeon provided all of the testimony detailed herein except for the testimony attributed to company employee Anthony D'Agostino.

The Cleveland office is divided into two departments: commercial service and residential/single service. The commercial service department handles all pest control jobs at business locations. This department is supervised by Route Manager Tim Miller who oversees 10 employees. Miller schedules the employees, assists them on jobs as needed, and is responsible for the quality and timeliness of all commercial service work. The residential/single service department handles all pest control jobs that occur on a one time basis as well as all work at residential structures whether it is a one-time job or is regularly reoccurring work. Gedeon manages this department and oversees its eight employees including Gilbert, Jalkanen, Klimaszewski and Cehelnik.

The Eastlake branch performs both commercial and residential service. The branch manager position is currently vacant. Gedeon and Operations Manager Howe are temporarily managing the office and its three employees. The Akron branch is managed by Jack Whyde who oversees one service employee. The record is silent regarding the type of work performed at the Akron office.

The Employer has a number of additional departments. The record does not, however, indicate at which of the three branches these departments are located. The Employer's home inspection department, also called the termite inspection department, inspects homes for termites or other wood-destroying insects prior to the sale of a house. This department is managed by Fred Ialacci who oversees two inspectors, including disputed employee Votava. The Employer's supply and distribution department prepares supplies for its retail and wholesale business by boxing and packaging materials and delivering them to the various branch offices. This department is managed by Gedeon, who oversees its two employees including disputed "split

time”⁵ employee Cehelnik. The Employer’s dispatch department employs two dispatchers. Its vehicle and equipment maintenance department fixes broken equipment and shuttles vehicles to service stations for repairs. Disputed employees Votava and Cehelnik work in this department at “split time,” which Gedeon estimated to be about three hours each per week.

The Employer’s field service technicians (technicians) perform on-site pest control treatment. They use a variety of chemicals and devices to eliminate pest problems. The technicians generally work alone unless a job requires more than one technician to be completed on time. All of the Employer’s technicians are licensed by the Ohio Department of Agriculture in “category 10A,” which is a general applicator’s license to perform structural pest control treatment. To become licensed, technicians must pass an exam. To keep their license, they must thereafter take classes that satisfy the Ohio Department of Agriculture’s continuing education requirements. About 60 to 70 percent of the Employer’s technicians are also licensed in “category 10B,” which involves detecting and treating for termite infestation. The record does not specify which technicians hold the category 10B license except to state that Gedeon as well as termite inspection department technicians Votava and Nick Chapler have it.

The five contested individuals, in addition to performing technician work, have other duties and responsibilities. Cehelnik started at the company as a warehouse and production manager. However, in July of 2000, Gedeon changed Cehelnik’s title to technician. Cehelnik now performs vehicle and equipment maintenance for about three hours per week, works in the supply and distribution department, and substitutes for technicians when they are on vacation or absent. Gedeon estimated that Cehelnik spends about 60 percent of his time performing

⁵ “Split time” refers to employees working in more than one department when there is not enough work in one particular department of the company to keep the employee busy.

technician work. Residential/single service department technician D'Agostino, however, estimated that Cehelnik performs technician work only about 20 percent of the time.

In addition to his technician duties, which Gedeon estimated constitute about 75 percent of his scheduled time, Jalkanen works with Gedeon in training new employees.⁶ When a new technician starts at the company, Jalkanen trains him or her for one hour in the morning twice a week from educational materials that he and Gedeon prepared. D'Agostino, testifying on the basis of his own training experience, explained that Jalkanen hands out assignments to trainees. The latter also watch Jalkanen perform pest control treatments. D'Agostino further testified that training manuals contain logs that keep track of trainees' attendance at training meetings. He maintained that these logs can only be signed by a supervisor or manager⁷ and stated that both Jalkanen and Gilbert signed his logbook.

Jalkanen also oversees a Purdue University correspondence class that the Employer's technicians complete. Gedeon explained that Jalkanen's job is

...to coordinate the paper [work since the classes are] self-directed learning courses. The technicians who are taking the classes do the lesson and bring it in. We have an opportunity to have a group discussion of the lesson, that way they could share, they could ask questions among themselves. Maybe there was an answer they couldn't find. [Jalkanen] takes the paper work, puts it in an envelope and mails it to Purdue University where it's graded and then sent back to the individuals.

Jalkanen has no authority over the employees in the class and cannot pass, fail, promote, or otherwise reward or demote an employee. All other company training is handled by Gedeon or conducted by outside consultants.

⁶ Gedeon testified that Jalkanen uses the title quality control coordinator when signing company letters, but did not affirm that Jalkanen held this position or explain what his duties were, if any, as quality control coordinator.

⁷ D'Agostino explained that this was not based on a written policy but was simply his understanding. He did not, however, explain how he came to have this understanding.

Votava is a technician who specializes in termite work. He has taken classes and received on-the-job training for a number of years to develop this specialty. As noted above, Votava is licensed in category 10B for detecting and treating termite infestation. Since Votava is no longer physically able to perform all of the termite treatment work, the company outsources some of it. When termites are found and the company receives a contract to perform termite treatment, Votava meets with the subcontractor at the job site to ensure that the work is correctly performed. Additionally, he works in vehicle and equipment maintenance about three hours per week.

Aside from his technician duties, Gilbert coordinates and keeps records of service work performed at apartment buildings. Gilbert takes the tally slips that are completed by a technician after a job is finished and enters the information into a logbook or computer. Also, if there is a large job to be done on an apartment complex, a dispatcher schedules Gilbert to assist. The record is silent regarding the amount of time Gilbert spends performing technician work.

In addition to his field service technician duties, Klimaszewski coordinates seasonal service work. In the residential service department, as customers call in and book appointments, dispatch assigns technicians to each job.⁸ This procedure may result in a gap in a technician's schedule. In the past, dispatchers filled in those gaps by assigning the technicians to reoccurring residential jobs, which the Employer also calls seasonal service work. At some point in time, Klimaszewski took over the duty of assigning jobs because of his familiarity with them. Other technicians, however, including D'Agostino,⁹ Darrell Polk and Mary Puglise also perform this

⁸ Gedeon assigns the regularly reoccurring jobs to technicians in this department and only he can approve changes to these assignments. The one-time or special jobs in this department are assigned to technicians by one of the company's two dispatchers.

⁹ D'Agostino testified that he performs this work only when Klimaszewski isn't present at work.

task.¹⁰ Gedeon estimated that Klimaszewski spends about one hour each morning making these assignments and the rest of his time, 75-80 percent, is dedicated to performing technician work.

The Employer's 1998 employee service manual, written by Gedeon and his father, identifies Jalkanen as the Employer's Training Manager/ Branch Coordinator, Gilbert as the Service Coordinator, Votava as the Termite Department Field Service Supervisor, Klimaszewski as the Seasonal Service Coordinator and Cehelnik as the Warehouse and Production Manager. These are the titles that Petitioner asserts are currently held by the five contested individuals. The Employer's technicians are listed in a separate area of the manual and none of the five contested individuals is included there. When asked by Petitioner's counsel on cross examination to explain why the five contested individuals are not listed on the document as service technicians, Gedeon explained "my name is John Gedeon, and I'm right up there as President and General Manager, but I assure you. . . I am a field service technician the same way as everybody else is . . . I don't have that after my name, but . . . I am a field service technician." Gedeon further testified that the document does not accurately reflect the work that the individuals at issue currently perform.¹¹

All of the Employer's employees, from managers through technicians, receive the same fringe, pension, health care and vacation benefits. The Employer provides uniforms for all employees and they are required to wear them. Technicians are paid on a "variable work week basis." They receive a weekly salary plus a commission of 25 percent of the work they perform in excess of an unstated threshold amount as well as overtime for the hours they work in excess of 40 hours per week. After an employee completes what Gedeon referred to as "basic training," the weekly salary starts at \$400 a week and increases to \$415, \$430, \$445 and \$460 based upon

¹⁰ The status of Polk and Puglise are not at issue in this case.

duration of employment and the completion of additional training. Klimaszewski and Gilbert are both paid on the variable work week basis. Klimaszewski earns \$430 per week and 25 percent commission on his service work. Gilbert earns \$480 per week but only a 10 percent commission. Cehelnik and Votava are paid by the hour. Cehelnik earns \$9.05 per hour or around \$25,000 per year and Votava earns around \$29,000 per year.¹² Jalkanen is paid an annual salary of about \$30,000 per year. The record is silent regarding whether the five contested individuals receive overtime pay and, if so, what amount. In comparison, Operations Manager Howe earns about \$38,000 to \$40,000 annually, Akron Service Manager Whyde \$27,000, Cleveland Route Manager Miller \$42,000 and Termite Inspection Manager Ialacci \$25,000. The record does not contain any explanation regarding why Cehelnik, Gilbert, Jalkanen and Votava are paid differently than other technicians.

Technicians do not have assigned work areas. They fill out paperwork either in their trucks or wherever they can find space in the office. There is a break room that technicians may use to complete their paper work. It contains tables, a telephone, counter workspace, and a labeled bin for each technician. The five individuals at issue have separate work areas. More specifically, Votava, Klimaszewski and Gilbert have separate sitting areas at tables where some supervisors work. When asked what he knew about the supervisory authority of Gilbert, technician D'Agostino testified "I was told that supervisors were located in a certain area of the office, and more normally employees like me and myself were kind of frowned upon about being back there and using that as a work area." D'Agostino did not explain who told him this and under what circumstances. Gedeon testified that Cehelnik sits in the general warehouse office

¹¹ Specifically, regarding Jalkanen, Gedeon explained that "the branch coordination idea never materialized" and that Jalkanen does not perform any work in the branches.

¹² The record is silent regarding Votava's hourly pay rate.

along with fellow warehouse employee John Collins. When asked whether technicians can sit at that desk, Gedeon testified that technicians do not go into the warehouse.

The Employer has a safety committee whose purpose is to examine its practice and procedure, look for ways it can improve its operations, and make recommendations to Gedeon. Gedeon testified that, to date, all that the committee has done is work on a first aid kit that Gedeon has approved and implemented. Gedeon could not recall who was on the committee besides Jalkanen. Technician D'Agostino testified that Cehelnik is also on the committee. When asked about his understanding of the purpose of the committee, D'Agostino explained that the technicians "get safety issues handed out to us from time to time." Gedeon testified that management meetings are attended only by Gedeon and Operations Manager Howe.

It is undisputed on the record that none of the five individuals whose status is at issue herein have the independent authority to hire, fire, promote, reward, lay off, or recall employees. While these individuals may recommend that another employee be disciplined or rewarded, all employees have that prerogative.

While Gedeon testified that none of the five contested individuals have the authority to hire, he acknowledged that they, along with other employees, may participate in interviewing applicants for employment. Lead dispatcher Madeline Morris or Operations Manager Howe perform the initial interview of a applicant. Then Gedeon interviews the employee and he explained that "if I have a candidate that I'm curious about and I want some other opinions, I can have other people, Tim Miller, talk to them." Gedeon added that he does this because "[w]e're looking for the people who we're interviewing to fit in. But the applicants – the interview process is run by myself and Bob Howe." D'Agostino, who was hired around April of 1998,

testified that Jalkanen was present when he was interviewed by Gedeon. When asked if Jalkanen conducted the interview, D'Agostino stated that "[b]asically, he was there observing."

Gedeon testified that none of the five contested individuals directs the work of other employees. If one of these employees is assigned to a large job where they have another technician working with them in strictly a helper position, he merely gives directions on how the job should be done. Gedeon explained, however, that "in the same vein, any of the other field service technicians, if they are performing a job, and somebody is there helping them, they are also determining what needs to be done."

Technician D'Agostino testified, contrary to Gedeon, that he reports to Klimaszewski on a daily basis. D'Agostino explained "[w]hen seasonal services are in effect, I report to Dick Klimaszewski. I grab my paper work and I go right to him and he fills – or he – [no further testimony offered]". D'Agostino stated that technicians Mary Puglise and Darryl Polk also report to Klimaszewski. D'Agostino further testified that Klimaszewski was involved in his schedule being changed. He explained that "[a]s of last year, they had changed my scheduling. I didn't get any – Dick Klimaszewski did come up to me, and told me that he and John had both looked at a way we could work a different schedule. Some [sic] he had some involvement with where I was going to be placed." D'Agostino testified that when he started at the company, he "was told that [Klimaszewski] was the one in charge of the seasonal service . . ." D'Agostino did not specify who told him this. He further explained that when he has problems with a client, "occasionally, I will go to [Klimaszewski] for a pest problem." When asked about the disciplinary process at the company, D'Agostino testified that he had one instance last year where Gedeon, Howe and Klimaszewski had a meeting with him about his work performance. While he didn't recall what was said at the meeting, he stated "I did know that Dick

Klimaszewski had a problem with certain emotion – I had emotional outbreaks during that time period, and I was going through a separation with my wife, and I was a little upset.”

Section 2(11) of the Act defines a supervisor as follows:

[A]ny individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

To meet this definition, a person needs to possess only one of the specific criteria listed, or the authority to effectively recommend, so long as the performance of that function is not routine but requires the use of independent judgment. **Ten Broeck Commons, 320 NLRB 806, 809 (1996).**

The burden of establishing supervisory status is on the party seeking to exclude an individual as a supervisor. **Bennett Industries, Inc., 313 NLRB 1363 (1994).**

Mere assertions of authority are not sufficient to establish supervisory status. As stated succinctly in **Chevron U.S.A., 309 NLRB 59, 62 (1992):**

[T]he Act requires “evidence of actual supervisory authority, visibly translated into tangible examples demonstrating the existence of such authority.” **Oil Workers v. NLRB, 455 F.2d 237, 243 (D.C. Cir. 1971).** Although “[a] supervisor may have potential powers, . . . theoretical or paper power will not suffice. Tables of organization and job descriptions do not vest powers.” **Id. at 243.** (Alterations in original, some citations omitted).

Furthermore, “the individual must consistently display true independent judgment in performing one or more of the enumerated functions in Section 2(11) of the Act.” **Amperage Electric, Inc., 301 NLRB 5, 13 (1991).** Merely following pre-established rules and procedures with respect to the foregoing criteria, without the exercise of independent discretion, is not using independent judgment. The exercise of some supervisory authority in a merely routine clerical perfunctory or sporadic manner also does not confer a supervisory status. **Id.**

As explained in **Chicago Metallic Corp.**, 273 NLRB 1677, 1688-1689 (1985), *aff'd.* in **relevant part 794 F.2d 527 (9th Cir. 1986)**:

The status of a supervisor under the Act is determined by an individual's duties, not by his title or job classification. It is well settled that an employee cannot be transformed into a supervisor merely by the vesting of a title and theoretical power to perform one or more of the enumerated functions in Section 2(11) of the Act. . . . [I]t is well recognized that Section 2(11)'s disjunctive listing of supervisory indicia does not alter the essential conjunctive requirement that a supervisor must exercise independent judgment in performing the enumerated functions. . . . Thus, the exercise of some supervisory authority in a merely routine, clerical, perfunctory, or sporadic manner does not elevate an employee into the supervisory ranks, "the test must be the significance of his judgment and directions." Consequently, an employee does not become a supervisor merely because he gives some instructions or minor orders to other employees. Nor does an employee become a supervisor because he has greater skills and job responsibilities or more duties than fellow employees. Additionally, the existence of independent judgment alone will not suffice for, "the decisive question is whether [the employee has] been found to possess authority to use independent judgment with respect to the exercise . . . of some one or more of the specific authorities listed in Section 2(11) of the Act." In short, "some kinship to management, some empathetic relationship between employer and employee must exist before the latter becomes a supervisor for the former." Moreover, in connection with the authority to recommend actions, Section 2(11) of the Act requires that the recommendations must be effective. [emphasis added and citations omitted.]

See also **NLRB v. Lauren Mfg. Co.**, 712 F.2d 245, 247-248 (6th Cir. 1983).

It is also well settled that in establishing that individuals possess Section 2(11) supervisory authority, mere inferences, without specific supporting evidence in the record, are insufficient to establish supervisory authority. **Custom Mattress Manufacturing, Inc.**, 327 NLRB 111, 112 (1998) (citing **Sears, Roebuck & Co.**, 304 NLRB 193 (1991)). Additionally, the Board has noted that "when evidence is inconclusive on a particular indicia of supervisory authority, the Board will find that supervisory status has not been established on the basis of those indicia." **Custom Mattress Manufacturing, supra** at 112 (citing **Phelps Community Medical Center**, 295 NLRB 486, 490 (1989); **The Door**, 297 NLRB 601, fn. 5 (1990)). The

Board has a duty not to construe this statutory language of Section 2(11) too broadly because the individual found to be a supervisor is denied the employee rights that are protected under the Act. **Hydro Conduit Corp., 254 NLRB 433, 437 (1981).**

Applying these general principles to the facts of this case, I find that Petitioner has failed to adduce sufficient evidence to warrant a finding that these five contested individuals are supervisors under Section 2(11) of the Act.

There was no evidence presented regarding the process of transferring, suspending, laying off, recalling, promoting, or rewarding employees. Therefore, I cannot find that any of the five contested individuals have the authority to take such action or effectively recommend it.

The only evidence that any of the five contested individuals are involved in the hiring process was testimony by technician D'Agostino that Jalkanen was present during his interview, and that D'Agostino was thereafter hired. In the absence of any evidence that Jalkanen had any hiring authority, or that he made any recommendation regarding D'Agostino's hiring, much less an effective recommendation,¹³ I cannot find that Jalkanen has the authority to hire employees or to effectively recommend such action.

The only evidence that any of the five contested individuals can discipline employees was D'Agostino's testimony that Klimaszewski was present at a meeting, along with Gedeon and Howe, in which they discussed D'Agostino's recent "emotional outbreaks" at work. The record does not contain any evidence that D'Agostino was, in fact, disciplined regarding this matter, or

¹³ The Board has found that in the absence of evidence regarding the circumstances under which an employee makes a recommendation, the actual role that his or her recommendation played in the decision making process, and whether the recommendation actually affected the ultimate decision or simply happened to coincide with it, the evidence is insufficient to establish supervisory authority on that basis. **Custom Mattress Manufacturing, Inc., supra at 111.** See also **F. A. Bartlet Tree Export Co., 325 NLRB 243, at 244-245 (1997)**, in which the Board found that because it was unknown what factors were considered in the decision making process, the preponderance of record evidence failed to establish that a recommendation was relied upon to the exclusion of other factors.

that his employment history was affected. Assuming arguendo that D'Agostino was disciplined, the record contains no evidence that Klimaszewski was in any way involved in the decision or that he effectively recommended it.¹⁴

Gedeon provided the only evidence that any of the five contested individuals assigns work. He testified that Klimaszewski assigns technicians to seasonal service residential jobs based upon a technician's already determined work schedule, the location of the jobs that need to be serviced, and the amount of time that a job takes. There is no indication from Gedeon or anywhere else in the record that Klimaszewski uses independent judgment in making these assignments. I therefore find that Klimaszewski's assignment of work under these circumstances is routine in nature and does not involve the use of independent judgment. See **Amperage Electric**, *supra* at 14. Moreover, the record evidences that other company technicians perform this same work and Petitioner does not contest the status of these employees.

The only evidence that any of the five contested individuals responsibly directs employees was D'Agostino's testimony that he, Puglise and Polk report to Klimaszewski regarding seasonal service work. D'Agostino did not explain what he meant by the fact that he and other technicians reported to Klimaszewski. He testified that Klimaszewski sometimes approaches him about problems with clients. Without more information, however, this evidence is insufficient to warrant a finding that Klimaszewski directs the work of these employees or adjusts their grievances. There was no other evidence presented that any of the five contested individuals adjust the grievances of employees.

Secondary indicia of supervisory status, in the absence of primary indicia, cannot establish supervisory status.¹⁵ Therefore, that some of the five contested individuals participate

¹⁴ See footnote 16 above.

in a safety committee, spend less time performing technician work each day and have other duties and responsibilities, have a different pay structure than the other technicians and warehouse employees,¹⁶ are assigned to different work areas than other technicians, and participate in training new employees, does not make any of them supervisors within the meaning of the Act.

Petitioner argues in its brief that the five contested individuals' titles, as demonstrated in the 1998 manual, demonstrate that they are supervisors. As stated above, the Board has found that titles alone do not confer supervisory status. **Chicago Metallic Corp., supra at 1688.** Moreover, even if based upon this organizational listing, employees' held the view that these individuals are supervisors, such evidence of supervisory status is secondary and cannot alone establish supervisory status.¹⁷

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this

¹⁵ In **General Security Services Corp., 326 NLRB 312 (1998)**, the Board noted that in the absence of any primary indicia of supervisory authority, that secondary indicia would not be determinative of supervisory status. **Id. at 312.** See also **St. Francis Medical Center – West, 323 NLRB 1046, at 1047 (1997).**(Secondary indicia of supervisory status may be considered but standing alone is insufficient to establish supervisory status.)

¹⁶ In its brief, Petitioner cites **American Industrial Cleaning Co., 291 NLRB 399 (1988)** as holding that an “employee who received benefits and salary of key operative and had the title of supervisor was supervisor.” On the contrary, the Board found that the individual was a supervisor based upon those as well as other factors, including evidence that the individual directed the employees in the performance of their duties and had the authority to reassign them from one job to another.

¹⁷ In its brief, Petitioner cites **Schlagel and East Denver Trash Disposal, 218 NLRB 1 (1975)** as holding that when employees believe an individual is a supervisor then that individual is indeed a supervisor. On the contrary, the Board held therein that the individual in dispute was a supervisor based upon evidence that this individual was responsible “for making route assignments and, more significantly,

Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by **Bakery Local Union No. 19 affiliated with the Bakery, Confectionery, Tobacco Workers and Grain Millers International Union.**

LIST OF VOTERS

In order to ensure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. **Excelsior Underwear Inc., 156 NLRB 1236 (1966); N.L.R.B. v. Wyman-Gordon Co., 394 U.S. 759 (1969).** Accordingly, it is directed that an eligibility list containing the *full* names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within 7 days from the date of this decision. **North Macon Health Care Facility, 315 NLRB 359 (1994).** The Regional Director shall make the list available to all parties to the election. No extension of time to file the list shall be granted by the Regional Director except in extraordinary

for being certain that the routes are serviced” as well as made recommendations regarding the hiring of two employees and recommendations regarding other personnel decisions.

circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington, by March 28, 2001.

Dated at Cleveland, Ohio this 14th day of March 2001.

/s/ Donald A. Knowlton

Donald A. Knowlton
Acting Regional Director
National Labor Relations Board
Region 8

177-8501-2000